

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ELEKTRA ENTERTAINMENT GROUP, INC., ET AL.,

Plaintiff,

v.

**MICHELLE SANTANGELO and
ROBERT SANTANGELO, JR.,**

Defendants.

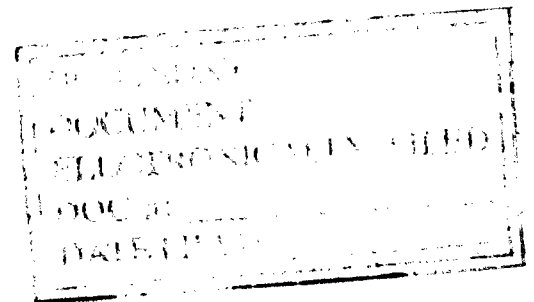
06 Civ. 11520 (SCR) (MDF)

**MEMORANDUM ORDER
ACCEPTING REPORT
RECOMMENDATION**

STEPHEN C. ROBINSON, UNITED STATES DISTRICT JUDGE.

The plaintiffs, Elektra Entertainment Group, Inc. Virgin Records America, Inc., UMG Recordings, Inc., BMG Music, and Sony BMG Music Entertainment, brought this action against Michelle Santangelo and Robert Santangelo, Jr., (collectively, the “defendants”), asserting copyright infringement. In their answer, the defendants asserted two counterclaims, one for breach of duty to ward and unequal treatment, and another for misuse of copyright. The plaintiffs moved to dismiss the counterclaims, and the day after that motion was fully briefed, the defendants moved under Federal Rule of Civil Procedure 15(a) for leave to file a First Amended Answer with amended and six additional counterclaims. The plaintiffs opposed the defendants’ motion, arguing that it would be futile because none of the counterclaims state a claim upon which relief can be granted.

United States Magistrate Judge Mark D. Fox has issued a Recommendation and Report on these motions, recommending that the defendants’ motion be denied. Under to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure Rules 72(b) and 6(d), the parties had a right to file



objections to the Report and Recommendation within thirteen working days from March 5, 2008.

The parties have not filed objections.

In reviewing a Report and Recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C §636(b)(1)(C). To accept a Report and Recommendation to which no timely objection has been made, a district court need only satisfy itself that “there is no clear error on the face of the record.” *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985) (citations omitted).


This Court has reviewed Judge Fox’s comprehensive and well-reasoned Report and Recommendation and has determined that there is no clear legal error on the face of the record. Accordingly, this Court adopts the Report and Recommendation.

The Court of the Clerk is directed to close docket entries 33, 43, 45, 56, and 57.

It is so ordered.

Dated: October 1, 2008

White Plains, New York



Stephen C. Robinson
United States District Judge